

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**VOCALSPACE, LLC,**

**Plaintiff,**

**v.**

**DANIEL D. LORENZO and  
LARKSPARK CORPORATION,**

**Defendants.**

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**Case No. 4:09-cv-00350**

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**PLAINTIFF’S EMERGENCY MOTION FOR PROTECTIVE ORDER**

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Plaintiff, VocalSpace LLC files this Emergency Motion for Protective Order and respectfully shows this Court as follows:

**I. INTRODUCTION**

Plaintiff should be granted a protective order to prevent Defendants from viewing Plaintiff’s post-January 2007 computer code (the “New Code”). Plaintiff initiated this lawsuit to protect its copyrighted code against infringement and to protect vital trade secrets that it alleges were misappropriated by Defendants. While acknowledging the Plaintiff’s risk involved in allowing Defendants to view the New Code, this Court has previously found that Defendants should be allowed an inspection of this code. However, consistent with the risk already acknowledged by the Court, Defendant Lorenzo has expressed his intention to release to the public—much to Plaintiff’s detriment—the very same trade secrets at issue in this case. In a January 10, 2011, blog posting, Defendant Lorenzo stated:

I think after this lawsuit is over I may just release my PubClip.com project as 100% open source in order to make sure that the community gets back what it has given. If the assholes suing me want to put me out of business because they have more money (despite the fact they have been wrong all along) then let them have **500 competitors overnight** and see how long they stay in business.

See January 10, 2011, blog posting, attached hereto as Exhibit A (emphasis in original). Defendant Lorenzo's emphasizing the number of competitors his illicit publicizing of Plaintiff's trade secrets would cause underscores Plaintiff's need for protection. Allowing Defendants to view the New Code would only serve to increase the potential for harm to Plaintiff. In light of the clear statement of Defendant Lorenzo's nefarious intentions, Plaintiff is entitled to a protective order preventing Defendants from viewing the code.

## II. ARGUMENT AND AUTHORITIES

To minimize the risk of harm to Plaintiff, the Court should enter an order blocking Defendants from conducting an inspection of the New Code. It is proper for the Court to block discovery in a situation such as this—where Defendants' intent is reprehensible. FED. R. CIV. P. 26(c)(1)(A); *Degen v. U.S.*, 517 U.S. 820, 826 (1996); *Reed v. AMAX Coal Co.*, 971 F.2d 1295, 1301 (7<sup>th</sup> Cir. 1992). Here, Defendants do not need to inspect the new code for legitimate discovery. Rather, as expressed in the January 10, 2011 blog posting, they intend to release the Plaintiff's proprietary code—and the vital trade secrets included therein—to the public. Since Defendants ill-intentions are clear, a protective order blocking the discovery should be granted.

## III. CONCLUSION

For these reasons, Plaintiff asks the Court to grant this Emergency Motion for Protective Order blocking Defendants from viewing Plaintiff's post-January 2007 computer code..

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 8, 2011.

/s/ Brian A. Colao  
Brian A. Colao

**CERTIFICATE OF CONFERENCE**

Counsel for Plaintiff, Neal Massand and Brian Colao, have conferred with counsel for Defendants, Earnest Nycz, on March 7 and 8, 2011 and Defendants oppose the relief requested in this Motion.

/s/ Brian A. Colao  
Brian A. Colao